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|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/510,175 | HARRIS, MARTIN | |
| | Examiner | Art Unit | |
| | Derek S. Chapel | 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/6/07 & 6/27/07.
2. ☒ The allowed claim(s) is/are 1-21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date <u>6/6/2007</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Status Of Claims

1. This Office Action is in response to an amendment received 6/6/2007 and 6/27/2007 in which Applicant lists claims 3-8 and 11-19 as being withdrawn, claim 10 as being original, claim 9 as being previously presented, claims 1 and 2 as being currently amended, and claims 20 and 21 as being new. It is interpreted by the examiner that claims 1-21 are pending.

Election/Restrictions

2. Claims 1-21 are allowable. The restriction requirement among the inventions, as set forth in the Office action mailed on 10/18/2006, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 3-8 and 11-19, directed to non-elected inventions, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

3. The Information Disclosure Statement(s) (IDS) filed on 6/6/2007 was considered.

Drawings

4. The replacement drawings and amendments to the specification were received on 6/6/2007. These drawings/amendments are accepted. The objections to the drawings cited in the office action mailed 2/6/2007 are hereby withdrawn.

Specification

5. The amendments to the specification dated 6/6/2007 are accepted. The objections to the specification cited in the office action mailed 2/6/2007 are hereby withdrawn.

Allowable Subject Matter

6. Claims 1-21 are allowed.
7. The following is an examiner's statement of reasons for allowance:

Claim 1 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a confocal microscope or

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endoscope having at least one optical element for spectrally dispersing said fluorescent component; and an imaging optical fibre bundle of individual fibres, said fibre bundle having an entry end located to receive said dispersed fluorescent component of said return light so that said fluorescent component is transmitted to an exit end of said fibre bundle; wherein said dispersed fluorescent component is received and transmitted by a plurality of said individual fibres of said fibre bundle and said fibre bundle preserves, between said entry end and said exit end of said fibre bundle, the relative spatial coordinates of the cores of said individual fibres, as generally set forth in claim 1, the device including, in combination with the features recited in claim 1. Claims 2-20 depend from claim 1 and are therefore allowable for at least the same reason as claim 1.

Claim 21 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a method of performing confocal microscopy or endoscopy including dispersing said fluorescent component such that said fluorescent component is received by a plurality of individual fibers of an imaging optical fibre bundle at an entry end of said fibre bundle; transmitting said fluorescent component with said fibre bundle to an exit end of said fibre bundle; and preserving the relative spatial coordinates of the cores of said individual fibres between said entry end and said exit end of said fibre bundle, as generally set forth in claim 21, the device including, in combination with the features recited in claim 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

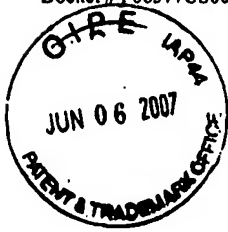
8. Applicant's arguments, see pages 3-5, filed 6/6/2007, with respect to the rejections of the claims have been fully considered and are persuasive. The rejections of the claims have been withdrawn.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Chapel whose telephone number is 571-272-8042. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Drawings Accepted
9/13/07 DSC



15/15

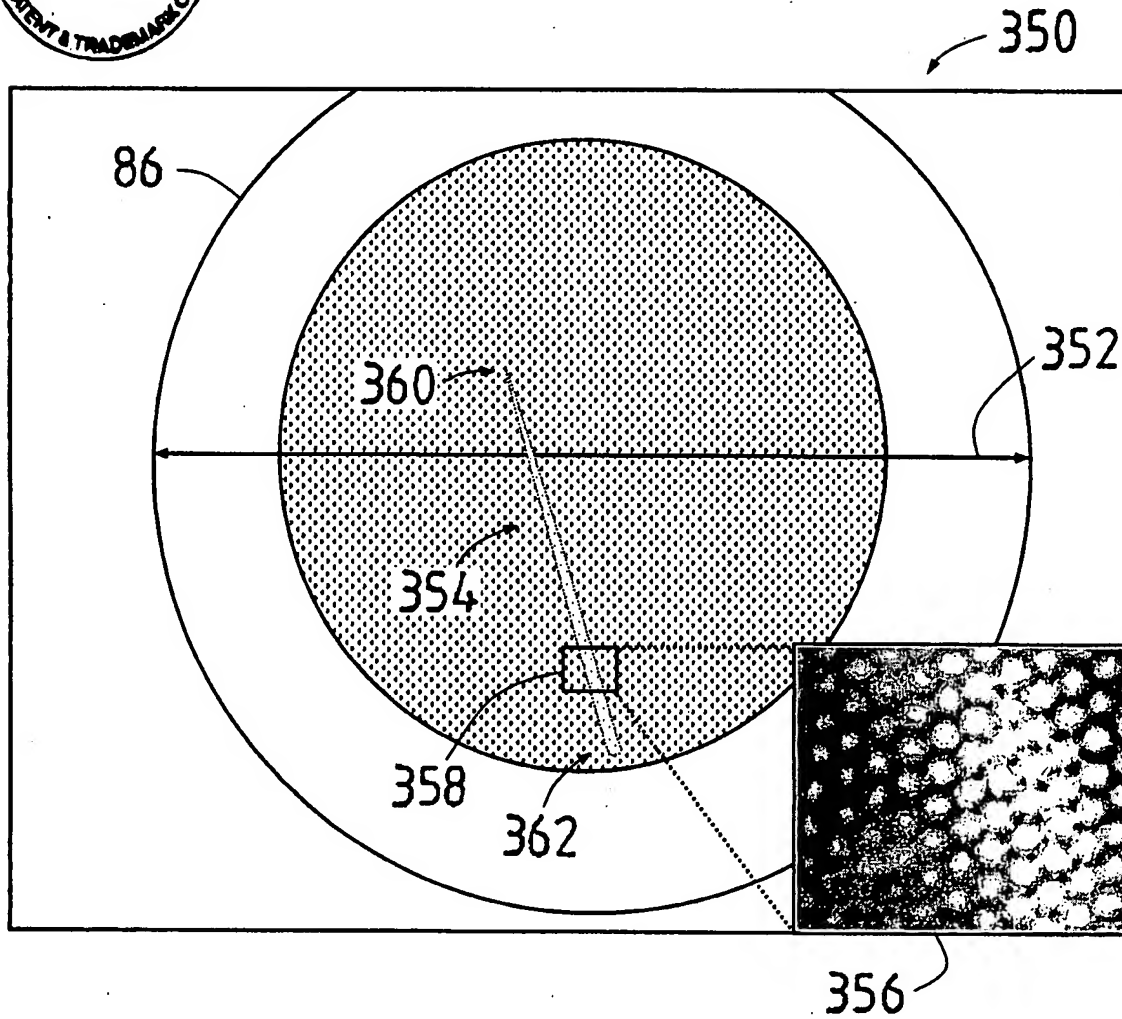


FIG. 10

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Derek Chapal
DSC
9/12/2007

Stephane B. Allen
Stephane B. Allen
Supervisory Patent Examiner